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KD-2010-6.C

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June 21, 2010

The Honorable Jocelyn Boyd  
Interim Chief Clerk of the Commission  
Public Service Commission of South Carolina  
Post Office Drawer 11649  
Columbia, South Carolina 29211

Re: Notice of Commencement of Treatment of EveryCall Communications,  
Inc. Pursuant to Current Interconnection Agreement  
Non-Docketed Item

Dear Ms. Boyd:

Enclosed for filing is AT&T South Carolina's Notice of Commencement of Treatment Pursuant to Current Interconnection Agreement in the above-referenced matter. As no Commission action is necessary, we respectfully request that the Commission post this Notice on its website as a Non-Docketed Item.

Sincerely,

Patrick W. Turner

PWT/nml

Enclosure

cc: Office of Regulatory Staff  
823513

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**BEFORE THE  
PUBLIC SERVICE COMMISSION  
OF SOUTH CAROLINA**

Notice of Commencement of Treatment of )	
EveryCall Communications, Inc. Pursuant to )	Non-Docketed Item
Current Interconnection Agreement )	

**NOTICE OF COMMENCEMENT OF TREATMENT  
PURSUANT TO CURRENT INTERCONNECTION AGREEMENT**

BellSouth Telecommunications, Inc. d/b/a AT&T South Carolina (“AT&T South Carolina”) respectfully notifies the Public Service Commission of South Carolina (“the Commission”) that on June 18, 2010, AT&T South Carolina sent EveryCall Communications, Inc. (“EveryCall”) a letter informing EveryCall that unless it promptly pays AT&T South Carolina the past-due balance for services it has purchased from AT&T South Carolina, AT&T South Carolina will suspend, discontinue, and/or terminate EveryCall’s service in South Carolina in compliance with the terms and conditions of the parties’ current interconnection agreement (“ICA”). Attachment A to this Notice is a redacted copy of that letter and its Attachments. AT&T South Carolina respectfully submits the following additional information to provide the Commission a more complete understanding of the facts that support AT&T South Carolina’s delivery of this letter to EveryCall.

EveryCall’s unpaid balance for services it has purchased from AT&T South Carolina pursuant to the ICA as of May 2010 is *more than twenty-eight times* the amount of the balance as of April 2008. This disturbing and unacceptable trend has developed because each month, EveryCall pays only a tiny fraction of the amounts AT&T South Carolina bills it for services it purchases pursuant to the parties’ ICA. For instance, the first attachment to AT&T South

Carolina's letter to EveryCall shows that during the six months from December 2009 through May 2010, inclusive, EveryCall paid AT&T South Carolina *less than four-tenths of one percent of the net amount billed*.<sup>1</sup> During the same time period, EveryCall increased the volume of services it purchased from AT&T South Carolina by more than 76%.

AT&T South Carolina acknowledges that it has denied a number EveryCall's requests for bill credits for various promotional offerings and that EveryCall has disputed certain of those denials. Disputing amounts AT&T South Carolina has billed it for the services it has purchased, however, does not permit EveryCall to withhold payment and saddle AT&T South Carolina with the significant risk that EveryCall would be unable to pay those disputed amounts if those disputes are resolved in favor of AT&T South Carolina. That much is clear from the plain language of the parties' ICA.

That ICA, which EveryCall negotiated with AT&T and which was submitted to and this Commission for approval, states:

Payment of *all* charges will be the responsibility of EveryCall.<sup>2</sup>

EveryCall shall make payment to [AT&T] for all services billed *including disputed amounts*.<sup>3</sup>

Payment for services provided by [AT&T], *including disputed charges*, is due on or before the next bill date.<sup>4</sup>

The ICA also expressly allows AT&T South Carolina to protect itself against the risk of nonpayment by taking the suspension, discontinuance, and termination actions referenced in

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<sup>1</sup> The "net amount billed" is the total amount billed less credits and other adjustments AT&T South Carolina applied to EveryCall's bill during that time period.

<sup>2</sup> ICA, Attachment 7, p.6, §1.4 (emphasis added). Attachment B to this Notice is a copy of Attachment 7 to the parties' ICA.

<sup>3</sup> *Id.*, (emphasis added).

<sup>4</sup> *Id.*, p.6, §1.4.1 (emphasis added).

Exhibit A upon EveryCall's continued refusal to pay the amounts AT&T South Carolina has billed it.<sup>5</sup>

Respectfully submitted on this the 21<sup>st</sup> day of June, 2010.

BELLSOUTH TELECOMMUNICATIONS, INC. d/b/a  
AT&T SOUTHEAST d/b/a AT&T SOUTH CAROLINA



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<sup>5</sup> See, e.g., *id.*, pp. 7-9, §§1.5 to 1.5.5.

## Attachment A



AT&T Southeast  
600 North 19th Street  
22nd Floor  
Birmingham, AL 35203

VIA FED EX, Tracking Number 8726 2365 8331  
June 18, 2010

Kyle Coats  
EveryCall Communications, Inc.  
4315 Bluebonnet Boulevard, Suite A  
Baton Rouge, Louisiana 70809

Dear Mr. Coats:

**RE: NOTICE OF SUSPENSION AND TERMINATION**

AT&T South Carolina's records indicate that the EveryCall Communications, Inc. ("EveryCall") South Carolina [REDACTED] account has an outstanding **past due balance of [REDACTED]** as of May 13, 2010. This [REDACTED] account is listed on Attachment A.

The Interconnection Agreement between AT&T South Carolina and EveryCall covering services purchased in the State of South Carolina, which has an Effective Date of November 30, 2006 ("ICA"), requires you to pay AT&T South Carolina all billed charges, including disputed amounts. See ICA, Attachment 7, Billing at Section 1.4, which reads, in part:

**EveryCall shall make payment to BellSouth for all services billed including disputed amounts.**

Moreover, Section 1.4.1 of Attachment 7, Billing to the ICA requires payment for services prior to the next bill date, as follows:

**1.4.1 Payment Due. Payment for services provided by BellSouth, including disputed charges, is due on or before the next bill date.**

Attachment A shows the amounts AT&T South Carolina billed EveryCall for [REDACTED] services purchased in the State of South Carolina, credit adjustments AT&T South Carolina applied and payments AT&T South Carolina received from EveryCall since April 2008.

Significantly, during the period from December 13, 2009 through May 13, 2010, inclusive, AT&T South Carolina billed EveryCall [REDACTED] and applied credit for promotions and other adjustments of [REDACTED], leaving a net amount owed for that period of [REDACTED]. During that same period, however, EveryCall paid AT&T South Carolina only [REDACTED] (less than four-tenths of one percent of the net amount owed), while increasing its provisioning of [REDACTED] services from AT&T South Carolina from [REDACTED] lines at the end of December 2009 to [REDACTED] lines provisioned at the end of May, 2010 (more than a 76% increase in [REDACTED] lines provisioned from AT&T South Carolina). Details of the [REDACTED] lines provisioned by EveryCall are included on Attachment B to this letter.



Please remit payment to AT&T South Carolina at the following address:

AT&T ROC-CABS  
600 North Point Parkway  
Alpharetta, Georgia 30005

Should you fail to make payment of [REDACTED] by July 6, 2010, AT&T South Carolina will take further action pursuant to our ICA, including without limitation Suspension, as provided in Section 1.5, *et seq.*, of Attachment 7, Billing, to our ICA.

In addition, should you fail to make payment of all past due charges for these [REDACTED] services on or before July 21, 2010, including all charges for [REDACTED] services that become past due before that date, AT&T South Carolina will take further action, including without limitation Discontinuance and/or Termination, as provided in Section 1.5, *et seq.*, of Attachment 7, Billing, to our ICA.

If you have questions, please contact me directly at (205) 970-5337.

Sincerely,

A handwritten signature in black ink that reads "Ann Mason". The signature is fluid and cursive, with the first name "Ann" and last name "Mason" clearly distinguishable.

Ann Mason  
Manager  
AT&T Credit and Collections

Attachments (2)

Attachment A

EveryCall Communications, Inc.

State	Balance Forward (Bill account number)	Payments	Adjustments with 13th bill date	Col B - (Col C + Col D)	Current Charges (not included in Col F)	Late Payment Charges (not included in Col F)	Amount Due
South Carolina							
Apr-08	\$	\$	\$	\$	\$	\$	\$
May-08	\$	\$	\$	\$	\$	\$	\$
Jun-08	\$	\$	\$	\$	\$	\$	\$
Jul-08	\$	\$	\$	\$	\$	\$	\$
Aug-08	\$	\$	\$	\$	\$	\$	\$
Sep-08	\$	\$	\$	\$	\$	\$	\$
Oct-08	\$	\$	\$	\$	\$	\$	\$
Nov-08	\$	\$	\$	\$	\$	\$	\$
Dec-08	\$	\$	\$	\$	\$	\$	\$
Jan-09	\$	\$	\$	\$	\$	\$	\$
Feb-09	\$	\$	\$	\$	\$	\$	\$
Mar-09	\$	\$	\$	\$	\$	\$	\$
Apr-09	\$	\$	\$	\$	\$	\$	\$
May-09	\$	\$	\$	\$	\$	\$	\$
Jun-09	\$	\$	\$	\$	\$	\$	\$
Jul-09	\$	\$	\$	\$	\$	\$	\$
Aug-09	\$	\$	\$	\$	\$	\$	\$
Sep-09	\$	\$	\$	\$	\$	\$	\$
Oct-09	\$	\$	\$	\$	\$	\$	\$
Nov-09	\$	\$	\$	\$	\$	\$	\$
	\$	\$	\$	\$	\$	\$	\$
Jan-10	\$	\$	\$	\$	\$	\$	\$
Feb-10	\$	\$	\$	\$	\$	\$	\$
Mar-10	\$	\$	\$	\$	\$	\$	\$
Apr-10	\$	\$	\$	\$	\$	\$	\$
May-10	\$	\$	\$	\$	\$	\$	\$
Totals	4/08 - 5/10	\$	\$	\$	\$	\$	\$
6 Month Totals		\$	\$	\$	\$	\$	\$

AT&T Proprietary (Restricted) - Authorized Individuals Only  
Customer Proprietary Information

6/15/2010



**ATTACHMENT B**

EveryCall Communications, Inc.

State: **South Carolina**

services purchased in state, as of the year and month specified.

**2009**

**2010**

JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY

**AT&T Proprietary (Restricted) -- Authorized Individuals Only**

**Customer Proprietary Information**

## Attachment B

**Attachment 7**

**Billing**

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## BILLING

### 1. **Payment and Billing Arrangements**

The terms and conditions set forth in this Attachment shall apply to all services ordered and provisioned pursuant to this Agreement.

- 1.1 BellSouth will bill through the Carrier Access Billing System (CABS), Integrated Billing System (IBS) and/or the Customer Records Information Systems (CRIS) depending on the particular service(s) provided to EveryCall under this Agreement. BellSouth will format all bills in CABS Billing Output Specification (CBOS) Standard or CLUB/EDI format, depending on the type of service provided. For those services where standards have not yet been developed, BellSouth's billing format may change in accordance with applicable industry standards.
- 1.1.1 For any service(s) BellSouth receives from EveryCall, EveryCall shall bill BellSouth in CBOS format.
- 1.1.2 Any switched access charges associated with interexchange carrier access to the resold local exchange lines will be billed by, and due to BellSouth.
- 1.1.3 BellSouth will render bills each month on established bill days for each of EveryCall's accounts. If either Party requests multiple billing media or additional copies of the bills, the billing Party will provide these at the rates set forth in BellSouth's FCC No. 1 Tariff, Section 13.3.6.3, except for resold services which shall be at the rates set forth in BellSouth's Non-Regulated Services Pricing List N6.
- 1.1.4 BellSouth will bill EveryCall in advance for all services to be provided during the ensuing billing period except charges associated with service usage and nonrecurring charges, which will be billed in arrears.
- 1.1.4.1 For resold services, charges for services will be calculated on an individual customer account level, including, if applicable, any charge for usage or usage allowances. BellSouth will also bill EveryCall, and EveryCall will be responsible for and remit to BellSouth, all charges applicable to said services including but not limited to 911 and E911 charges, EUCL charges, federal subscriber line charges, telecommunications relay charges, and franchise fees, unless otherwise ordered by a Commission.
- 1.1.5 BellSouth will not perform billing and collection services for EveryCall as a result of the execution of this Agreement.
- 1.2 Establishing Accounts and Subsequent State Certifications. After submitting a credit profile and deposit, if required, and after receiving certification as a local exchange carrier from the appropriate Commission, EveryCall will provide the appropriate BellSouth Local Contract Manager responsible for new CLEC

activation, the necessary documentation to enable BellSouth to establish accounts for Local Interconnection, Network Elements and Other Services and/or resold services. Such documentation shall include the Application for Master Account, if applicable, proof of authority to provide Telecommunications Services, the appropriate OCN for each state as assigned by the NECA, CIC, if applicable, ACNA, if applicable, BellSouth's blanket form LOA, Misdirected Number form, and a tax exemption certificate, if applicable. Notwithstanding anything to the contrary in this Agreement, EveryCall may not order services under a new account and/or subsequent state certification, established in accordance with this Section until thirty (30) days after all information specified in this Section is received from EveryCall.

- 1.2.1 ACNAs. EveryCall shall provide BellSouth with documentation from Telcordia identifying the ACNA assigned to it by Telcordia (as applicable) in the same legal name as reflected in the preamble to this Agreement. Such ACNA will be used by EveryCall to order services pursuant to this Agreement and will not be shared by EveryCall with another entity.
- 1.2.2 Company Identifiers. If EveryCall needs to change, add to, eliminate or convert its OCN(s), ACNAs and other identifying codes (collectively "Company Identifiers") under which it operates when EveryCall has already been conducting business utilizing those Company Identifiers, EveryCall shall follow the Mergers and Acquisitions Process as described on BellSouth's Interconnection Web site, and shall be subject to separately negotiated rates, terms and conditions.
- 1.2.3 Tax Exemption. It is the responsibility of EveryCall to provide BellSouth with a properly completed tax exemption certificate in the current version of the form customarily used by BellSouth and at intervals required by the appropriate taxing authorities or reasonably requested by BellSouth. A tax exemption certificate must be supplied for each individual EveryCall entity purchasing Services under this Agreement. Upon BellSouth's receipt of a properly completed tax exemption certificate, subsequent billings to EveryCall will not include those taxes or fees from which EveryCall is exempt. Prior to receipt of a properly completed exemption certificate, BellSouth shall bill, and EveryCall shall pay all applicable taxes and fees. In the event that EveryCall believes that it is entitled to an exemption from and refund of taxes with respect to the amount billed prior to BellSouth's receipt of a properly completed exemption certificate, BellSouth shall assign to EveryCall its rights to claim a refund of such taxes. If applicable law prohibits the assignment of tax refund rights or requires the claim for refund of such taxes to be filed by BellSouth, BellSouth shall, after receiving a written request from EveryCall and at EveryCall's sole expense, pursue such refund claim on behalf of EveryCall, provided that EveryCall promptly reimburses BellSouth for any costs and expenses incurred by BellSouth in pursuing such refund claim; and, provided further, that BellSouth shall have the right to deduct any such outstanding costs and expenses from the amount of any refund obtained prior to remitting such refund to EveryCall or to deduct any such outstanding costs and

expenses from any amounts owed by BellSouth to EveryCall if no refund is obtained. EveryCall shall be solely responsible for the computation, tracking, reporting and payment of all taxes and fees associated with the services provided by EveryCall to its customers.

- 1.3 Deposit Policy. Prior to the inauguration of service or, thereafter, upon BellSouth's request, EveryCall shall complete the BellSouth Credit Profile (BellSouth form) and provide information to BellSouth regarding EveryCall's credit and financial condition. Based on BellSouth's analysis of the BellSouth Credit Profile and other relevant information regarding EveryCall's credit and financial condition, BellSouth reserves the right to require EveryCall to provide BellSouth with a suitable form of security deposit for EveryCall's account(s). If, in BellSouth's sole discretion, circumstances so warrant and/or EveryCall's gross monthly billing has increased, BellSouth reserves the right to request additional security (or to require a security deposit if none was previously requested) and/or file a Uniform Commercial Code (UCC-1) security interest in EveryCall's "accounts receivables and proceeds".
- 1.3.1 Security deposit shall take the form of cash, an irrevocable letter of credit (BellSouth form), surety bond (BellSouth form) or, in BellSouth's sole discretion, some other form of security proposed by EveryCall and accepted by BellSouth. Any such security deposit shall in no way release EveryCall from its obligation to make complete and timely payments of its bill(s). If BellSouth requires EveryCall to provide a security deposit, EveryCall shall provide such security deposit prior to the inauguration of service or within fifteen (15) days of BellSouth's request, as applicable. Security deposit request notices will be sent to EveryCall via certified mail or overnight delivery. Such notice period will start the day after the deposit request notice is rendered by certified mail or overnight delivery. Interest on a cash security deposit shall accrue and be applied or refunded in accordance with the terms in BellSouth's GSST.
- 1.3.2 Security deposits collected under this Section shall not exceed two (2) months' estimated billing for services pursuant to this Agreement. Estimated billings are calculated based upon the monthly average of the previous six (6) months current billings, if EveryCall has received service from BellSouth during such period at a level comparable to that anticipated to occur over the next six (6) months. If either EveryCall or BellSouth has reason to believe that the level of service to be received during the next six (6) months will be materially higher or lower than received in the previous six (6) months, EveryCall and BellSouth shall agree on a level of estimated billings based on all relevant information.
- 1.3.3 In the event EveryCall fails to provide BellSouth with a suitable form of security deposit or additional security deposit as required herein, defaults on its account(s), or otherwise fails to make any payment or payments required under this Agreement in the manner and within the time required, service to EveryCall may be Suspended, Discontinued or Terminated in accordance with the terms of

Section 1.5 below. Upon Termination of services, BellSouth shall apply any security deposit to EveryCall's final bill for its account(s). If no bill is rendered to EveryCall, BellSouth shall, nevertheless, apply any security deposit to EveryCall's outstanding balance.

- 1.3.3.1 At least seven (7) days prior to the expiration of any letter of credit provided by EveryCall as security under this Agreement, EveryCall shall renew such letter of credit or provide BellSouth with evidence that EveryCall has obtained a suitable replacement for the letter of credit. If EveryCall fails to comply with the foregoing, BellSouth shall thereafter be authorized, in its sole discretion, to draw down the full amount of such letter of credit and utilize the cash proceeds as security for EveryCall accounts(s). If EveryCall provides a security deposit or additional security deposit in the form of a surety bond as required herein, EveryCall shall renew the surety bond or provide BellSouth with evidence that EveryCall has obtained a suitable replacement for the surety bond at least seven (7) days prior to the cancellation date of the surety bond. If EveryCall fails to comply with the foregoing, BellSouth shall thereafter be authorized, in its sole discretion, to take action on the surety bond and utilize the cash proceeds as security for EveryCall's account(s). If the credit rating of any bonding company that has provided EveryCall with a surety bond provided as security hereunder has fallen below B, BellSouth will provide written notice to EveryCall that EveryCall must provide a replacement bond or other suitable security within fifteen (15) days of BellSouth's written notice. If EveryCall fails to comply with the foregoing, BellSouth shall thereafter be authorized, in its sole discretion, to take action on the surety bond and utilize the cash proceeds as security for EveryCall's account(s). Notwithstanding anything contained in this Agreement to the contrary, BellSouth shall be authorized, in its sole discretion, to draw down the full amount of any letter of credit or take action on any surety bond provided by EveryCall as security hereunder if EveryCall defaults on its account(s) or otherwise fails to make any payment or payments required under this Agreement in the manner and within the time, as required herein and apply the cash proceeds to any outstanding balance on EveryCall's accounts and utilize any remaining cash proceeds as security for EveryCall's account(s).
- 1.4 Payment Responsibility. Payment of all charges will be the responsibility of EveryCall. EveryCall shall pay invoices by utilizing wire transfer services or automatic clearing house services. EveryCall shall make payment to BellSouth for all services billed including disputed amounts. BellSouth will not become involved in billing disputes that may arise between EveryCall and EveryCall's customer.
- 1.4.1 Payment Due. Payment for services provided by BellSouth, including disputed charges, is due on or before the next bill date. Information required to apply payments must accompany the payment. The information must notify BellSouth of Billing Account Numbers (BAN) paid; invoices paid and the amount to be applied to each BAN and invoice (Remittance Information). Payment is considered to have been made when the payment and Remittance Information are received by



BellSouth. If the Remittance Information is not received with payment, BellSouth will be unable to apply amounts paid to EveryCall's accounts. In such event, BellSouth shall hold such funds until the Remittance Information is received. If BellSouth does not receive the Remittance Information by the payment due date for any account(s), late payment charges shall apply.

- 1.4.1.1 Due Dates. If the payment due date falls on a Sunday or on a holiday that is observed on a Monday, the payment due date shall be the first non-holiday day following such Sunday or holiday. If the payment due date falls on a Saturday or on a holiday which is observed on Tuesday, Wednesday, Thursday, or Friday, the payment due date shall be the last non-holiday day preceding such Saturday or holiday. If payment is not received by the payment due date, a late payment charge, as set forth in Section 1.4.1.2, below, shall apply.
- 1.4.1.2 Late Payment. If any portion of the payment is not received by BellSouth on or before the payment due date as set forth above, or if any portion of the payment is received by BellSouth in funds that are not immediately available to BellSouth, then a late payment and/or interest charge shall be due to BellSouth. The late payment and/or interest charge shall apply to the portion of the payment not received and shall be assessed as set forth in Section A2 of BellSouth's GSST, Section B2 of the Private Line Service Tariff or Section E2 of the BellSouth intrastate Access Services Tariff, or pursuant to the applicable state law as determined by BellSouth. In addition to any applicable late payment and/or interest charges, EveryCall may be charged a fee for all returned checks at the rate set forth in Section A2 of BellSouth's GSST or pursuant to the applicable state law.
- 1.5 Discontinuing Service to EveryCall. The procedures for discontinuing service to EveryCall are as follows:
  - 1.5.1 In order of severity, Suspend/Suspension, Discontinue/Discontinuance and Terminate/Termination are defined as follows for the purposes of this Attachment:
    - 1.5.1.1 Suspend/Suspension is the temporary restriction of the billed Party's access to the ordering systems and/or access to the billed Party's ability to initiate PIC-related changes. In addition, during Suspension, pending orders may not be completed and orders for new service or changes to existing services may not be accepted.
    - 1.5.1.2 Discontinue/Discontinuance is the denial of service by the billing Party to the billed Party that will result in the disruption and discontinuation of service to the billed Party's customers. Additionally, at the time of Discontinuance, BellSouth will remove any Local Service Freezes in place on the billed Party's customers.
    - 1.5.1.3 Terminate/Termination is the disconnection of service by the billing Party to the billed Party.
  - 1.5.2 BellSouth reserves the right to Suspend, Discontinue or Terminate service in the event of prohibited, unlawful or improper use of BellSouth facilities or service,

abuse of BellSouth facilities, or any other violation or noncompliance by EveryCall of the rules and regulations of BellSouth's tariffs.

- 1.5.3 Suspension. If payment of amounts due as described herein is not received by the bill date in the month after the original bill date, or fifteen (15) days from the date of a deposit request in the case of security deposits, BellSouth will provide written notice to EveryCall that services will be Suspended if payment of such amounts, and all other amounts that become past due before Suspension, is not received by wire transfer, automatic clearing house or cashier's check in the manner set forth in Section 1.4.1 above, or in the case of a security deposit request, in the manner set forth in Section 1.3.1 above: (1) within seven (7) days following such notice for CABS billed services; (2) within fifteen (15) days following such notice for CRIS and IBS billed services; and (3) within seven (7) days following such notice for security deposit requests.
- 1.5.3.1 The Suspension notice shall also provide that all past due charges for CRIS and IBS billed services, and all other amounts that become past due for such services before Discontinuance, must be paid within thirty (30) days from the date of the Suspension notice to avoid Discontinuance of CRIS and IBS billed services.
- 1.5.3.2 For CABS billed services, BellSouth will provide a Discontinuance notice that is separate from the Suspension notice, that all past due charges for CABS billed Services, and all other amounts that become past due for such services before Discontinuance, must be paid within thirty (30) days from the date of the Suspension notice to avoid Discontinuance of CABS billed services. This Discontinuance notice may be provided at the same time that BellSouth provides the Suspension notice.
- 1.5.4 Discontinuance. If payment of amounts due as described herein is not received by the bill date in the month after the original bill date, BellSouth will provide written notice that BellSouth may Discontinue the provision of existing services to EveryCall if payment of such amounts, and all other amounts that become past due before Discontinuance, including requested security deposits, is not received by wire transfer, automatic clearing house or cashier's check in the manner set forth in Section 1.4.1 above or in the case of a deposit in accordance with Section 1.3.1 above, within thirty (30) days following such written notice; provided, however, that BellSouth may provide written notice that such existing services may be Discontinued within fifteen (15) days following such notice, subject to the criteria described in Section 1.5.4.1 below.
- 1.5.4.1 BellSouth may take the action to Discontinue the provision of existing service upon fifteen (15) days from the day after BellSouth provides written notice of such Discontinuance if (a) such notice is sent by certified mail or overnight delivery; (b) EveryCall has not paid all amounts due pursuant to a subject bill(s), or has not provided adequate security pursuant to a deposit request; and (c) either:

- (1) BellSouth has sent the subject bill(s) to EveryCall within seven (7) business days of the bill date(s), verifiable by records maintained by BellSouth:
  - i. in paper or CDROM form via the United States Postal Service (USPS),  
or
  - ii. in magnetic tape form via overnight delivery, or
  - iii. via electronic transmission; or
- (2) BellSouth has sent the subject bill(s) to EveryCall, using one of the media described in (1) above, more than thirty (30) days before notice to Discontinue service has been rendered.

- 1.5.4.2 In the case of Discontinuance of services, all billed charges, as well as applicable disconnect charges, shall become due.
- 1.5.4.3 EveryCall is solely responsible for notifying the customer of the Discontinuance of service. If, within seven (7) days after EveryCall's services have been Discontinued, EveryCall pays, by wire transfer, automatic clearing house or cashier's check, all past due charges, including late payment charges, outstanding security deposit request amounts if applicable and any applicable restoral charges as set forth in Section A4 of BellSouth's GSST, then BellSouth will reestablish service for EveryCall.
- 1.5.5 Termination. If within seven (7) days after EveryCall's service has been Discontinued and EveryCall has failed to pay all past due charges as described above, then EveryCall's service will be Terminated.

## **2. Billing Disputes**

- 2.1 EveryCall shall electronically submit all billing disputes to BellSouth using the form specified by BellSouth. In the event of a billing dispute, the Parties will endeavor to resolve the dispute within sixty (60) days of the notification date. Within five (5) business days of BellSouth's denial, or partial denial, of the billing dispute, if EveryCall is not satisfied with BellSouth's resolution of the billing dispute or if no response to the billing dispute has been received by EveryCall by such sixtieth (60<sup>th</sup>) day, EveryCall must pursue the escalation process as outlined in the Billing Dispute Escalation Matrix, set forth on BellSouth's Interconnection Services Web site, or the billing dispute shall be considered denied and closed. If, after escalation, the Parties are unable to reach resolution, then the aggrieved Party, if it elects to pursue the dispute shall pursue dispute resolution in accordance with General Terms and Conditions.
- 2.2 For purposes of this Section 2, a billing dispute means a reported dispute submitted pursuant to Section 2.1 above of a specific amount of money actually billed by BellSouth within twelve (12) months of the submission of such dispute. EveryCall agrees to not submit billing disputes for amounts billed more than

twelve (12) months prior to submission of a billing dispute filed for amounts billed. The billing dispute must be clearly explained by EveryCall and supported by written documentation, which clearly shows the basis for disputing charges. The determination as to whether the billing dispute is clearly explained or clearly shows the basis for disputing charges shall be within BellSouth's sole reasonable discretion. Disputes that are not clearly explained or those that do not provide complete information may be rejected by BellSouth. Claims by EveryCall for damages of any kind will not be considered a billing dispute for purposes of this Section. If BellSouth resolves the billing dispute, in whole or in part, in favor of EveryCall, any credits and interest due to EveryCall as a result thereof shall be applied to EveryCall's account by BellSouth upon resolution of the billing dispute.

**3. Non-InterCompany Settlements**

- 3.1 Direct Participants are Telecommunications carriers that exchange data directly with other Direct Participants via the Centralized Message Distribution System (CMDS) Data Center (Direct Participant) and may act as host companies (Host) for those Telecommunications carriers that do not exchange data directly via the CMDS Data Center.
- 3.2 The Non-InterCompany Settlements (NICS) is the national system administered by Telcordia that is used in the settlement of revenues for calls that are originated and billed by two (2) different local exchange carriers (LEC) within a single Direct Participant's territory to another for billing. NICS applies to calls involving another LEC where the Earning Company and the Billing Company are located within BellSouth's territory.
- 3.3 In association with message distribution service, BellSouth will provide EveryCall with associated intercompany settlements reports as appropriate.
- 3.4 Notwithstanding anything in this Agreement to the contrary, in no case shall either Party be liable to the other for any direct or consequential damages incurred as a result of the obligations set out in this Section 3.
- 3.5 Intercompany Settlements Messages
  - 3.5.1 Intercompany Settlements Messages facilitate the settlement of revenues associated with traffic originated from or billed by EveryCall as a facilities based provider of local exchange Telecommunications Services.
  - 3.5.2 BellSouth will receive the monthly NICS reports from Telcordia on behalf of EveryCall and will distribute copies of these reports to EveryCall on a monthly basis.
  - 3.5.3 Through NICS, BellSouth will collect the revenue earned by EveryCall within the BellSouth territory from another LEC also within the BellSouth territory where the messages are billed, less a per message billing and collection fee of five cents

(\$0.05), on behalf of EveryCall. BellSouth will remit the revenue billed by EveryCall within the BellSouth region to the LEC also within the BellSouth region, where the messages originated, less a per message billing and collection fee of five cents (\$0.05). These two (2) amounts will be netted together by BellSouth and the resulting charge or credit issued to EveryCall via a CABS miscellaneous bill on a monthly basis in arrears.

- 3.5.4 BellSouth and EveryCall agree that monthly netted amounts of less than fifty dollars (\$50.00) will not be settled.